

# Proposed Amendments Civil Service Rules

(Rev **A**: February 27, 2003)

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**Staff Comments to Proposed Amendments to Rule 1-9**

From time to time, classified employees are hired into or return from appointments in unclassified positions in the executive branch. The ability of such persons to transfer accrued sick and annual leave balances between the classified and unclassified service is often in question.

The civil service commission regulates the transfer of such balances into the classified service, but cannot regulate the transfer of such balances into an *unclassified* position. Sick and annual leave issues for unclassified employees are the domain of the Governor and the Department of Management and Budget (DMB).

The staff proposal would add a new subsection **1-9.3(d)** that permits unclassified executive employees to transfer accrued annual and sick leave balances into a classified job, but only if, and to the extent that, the DMB permits reverse transfers for classified employees moving into unclassified positions. Any such transfer would require the approval of the State Personnel Director.

[The staff proposal does not permit transfers of leave balances into the classified service from elected positions, positions in the judicial branch, the legislative branch, or state institutions of higher education.]

## 1-9 Excepted and Exempt Positions

### 1-9.1 Excepted Positions

Positions excepted from the state classified service are those specified in article 11, section 5, of the constitution.

### 1-9.2 Exempt Positions

(a) **Limitations.** The head of each principal department may request that the state personnel director exempt up to five positions from the classified service, as provided in article 11, section 5, of the constitution. Four of the five positions must be policy-making positions.

(b) **Method of establishing.** The state personnel director may exempt up to five positions within each principal department upon request. The director shall report to the civil service commission each exemption granted and shall maintain a record of all exempt positions.

### 1-9.3 Appointment to Excepted or Exempt Positions

(a) **Leave of absence to accept appointment.** With the prior approval of the appointing authority, a classified employee may receive a leave of absence without pay from the employee's current classified position to accept an appointment to an excepted or exempt position.

(b) **Return to the classified service.** At the conclusion of a leave of absence to accept an appointment to an excepted or exempt position, the appointing authority shall return the employee to the classified position formerly occupied or an equivalent position. If the position was abolished during the leave of absence, the appointing authority shall return the employee in accordance with the civil service rules and regulations governing employment preference in effect when the former classified employee seeks to return to the classified service.

(c) **State service credit.** An employee returning from a leave of absence granted to accept appointment to an excepted or exempt position is allowed state service credit for all purposes for the period of the leave. Credit is allowed as service in the classification from which the employee was granted the leave of absence.

(d) **New appointment; reciprocal transfers of annual and sick leave accruals.** If an appointing authority hires a person directly from an excepted or exempt position in the executive branch, the appointing authority may request that accrued annual and sick leave balances earned in the excepted or exempt executive branch position be

1 transferred to the classified service. The state personnel director may authorize a  
2 transfer to the same extent that the department of management and budget permits  
3 classified employees appointed to an excepted or exempt executive branch position to  
4 transfer annual and sick leave balances accrued in the classified service into the  
5 unclassified service. Transfers for persons hired from elected positions, the judicial  
6 branch, the legislative branch, and state institutions of higher education are not  
7 permitted.  
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### Staff Comments to Draft Rule 2-5.5

The proposed amendments to Rule 2-5.5 attempt to clarify where grievances regarding seniority bumping are filed. **The proposed amendments are intended only to clarify existing practices regarding where grievances are to be filed and are not intended to change any existing rights.**

If a nonexclusively represented employee [NERE] or an exclusively represented employee is laid off and wishes to complain about being denied a right to bump another employee, the forum for the resulting grievance depends on the position into which the grievant wanted to bump:

1. If the laid-off employee is complaining about being denied a right to displace another employee occupying a NERE position, the grievance must be filed in the civil service NERE grievance forum (irrespective of whether the grievant was laid off from a NERE position or an exclusively represented position).
2. If the laid-off employee is complaining about being denied a right to displace another employee occupying an exclusively represented position, the grievance must be filed in the forum provided in the collective bargaining for the exclusively-represented position (irrespective of whether the grievant was laid off from a NERE position or an exclusively represented position).

In addition, the current text is amended to change certain phrases to conform to the current rules phraseology:

1. The phrase "employee covered by a collective bargaining agreement" is replaced by the phrase "employee occupying an exclusively represented position."
2. The phrase "employee not covered by a collective bargaining agreement" is replaced by the phrase "employee occupying a nonexclusively represented position."

## 2-5 Employment Preference

\* \* \*

### 2-5.5 Application of Employment Preference between Employees Covered by a Collective Bargaining Agreement and Employees not Covered by a Collective Bargaining Agreement

Application of employment preference between employees occupying exclusively represented positions and employees occupying nonexclusively represented positions is subject to the following additional conditions:

- (a) **Qualification.** An employee may only displace a less senior employee in a position for which qualified in a classification in which the employee has previously attained status.

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(b) Application; exhaustion.

(1) **Bumping by NEREs.** An employee laid off from a nonexclusively represented position must first exhaust all bumping rights to other nonexclusively represented positions. After exhausting all such rights, the employee may then bump into an exclusively represented position that minimizes loss of pay, subject to the terms and conditions of the collective bargaining agreement.

(2) **Bumping by exclusively represented employees.** If a collective bargaining agreement expressly provides for exclusively represented employees covered by the agreement to bump into nonexclusively represented positions, they may do so only after exhausting all bumping rights under the agreement, and then in accordance with this rule. When more than one employee covered by a collective bargaining agreement is eligible to bump into a nonexclusively represented position, the most senior employee receives bumping rights.

(c) **Total continuous service.** Employment preference is determined by an employee's total continuous service.

(d) **Limitation on seniority.** A collective bargaining agreement cannot prohibit an employee who accepts a supervisory position or any other employee occupying a nonexclusively represented position from exercising employment preference into an exclusively represented position. In such bumping situations, seniority earned outside the unit applies, except as limited by any collective bargaining agreement provisions in effect on January 23, 1983. This subsection only applies after the employee exhausts rights to displace other employees in nonexclusively represented positions.

(e) **Grievances.** A complaint concerning the denial of a right to displace an employee in a nonexclusively represented position may only be filed in the civil service grievance forum. A complaint regarding denial of a right to displace an employee in an exclusively represented position may only be filed in the grievance forum provided in the applicable collective bargaining agreement.

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**Deleted:** A grievance based on the application and adverse effects of this rule is filed, processed, and resolved under the grievance procedure provisions that are applicable to the position into which the exercise of employment preference has occurred or is scheduled to occur. This rule does not preclude a nonexclusively represented employee from filing a standard grievance, even after bumping into an exclusively represented position, if the employee contends a denial of the right to displace another nonexclusively represented employee.

**Staff Comments to Proposed Amendments to Rule 3-3**

Rule 3-3 does not expressly provide for *voluntary* demotion by an employee, either within a department or between departments. The proposed amendments explicitly permit voluntary demotions by employees.

**3-3 Appointments and Job Changes****3-3.1 Process**

All appointments, promotions, and job changes in the classified service must be made in accordance with the civil service rules and regulations. Any person appointed or promoted must be certified as qualified in accordance with and subject to the civil service rules and regulations. The state personnel director shall administer the certification of all appointments and promotions.

**3-3.2 Demotion**

(a) **Notice.** If an appointing authority intends to involuntarily demote an employee, the appointing authority shall give prior written notice of the specific reasons for the demotion to the employee.

(b) **Conditions.** An appointing authority may demote an employee under any of the following circumstances:

- (1) The employee is not performing satisfactorily.
- (2) The employee's position is reclassified downward.
- (3) The demotion is requested by the employee and approved by the appointing authority.
- (4) The position occupied by the employee is abolished.
- (5) The employee is displaced by the return to duty of another employee entitled to the position.
- (6) The employee is displaced by another employee with more seniority during a reduction in force.
- (7) The employee does not receive a satisfactory probationary service rating, as authorized in rule 3-6.3(b) [Unsatisfactory Service: Employee with Status].

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2 **3-3.5 Lateral Job Change or Voluntary Demotion Between**  
3 **Departments**

4 Any two appointing authorities may authorize a lateral job change or voluntary demotion for  
5 an employee between departments or autonomous entities. The employee may be moved to  
6 a different classification only if (1) the employee previously attained status in the  
7 classification, (2) the job change is based on the civil service preauthorized lateral job  
8 change list, or (3) the employee meets the civil service qualification requirements. A lateral  
9 job change or voluntary demotion between departments or autonomous entities requires the  
10 agreement of the employee and the approval of the department of civil service.

11 **3-3.6 Lateral Job Change or Voluntary Demotion within a**  
12 **Department**

13 An appointing authority may authorize a lateral job change or voluntary demotion for an  
14 employee within the employee's current department or autonomous entity. The employee  
15 may be moved to a different classification only if (1) the employee previously attained status  
16 in the classification, (2) the job change is based on the civil service preauthorized lateral job  
17 change list, or (3) the employee meets the civil service qualification requirements. A lateral  
18 job change within a department or autonomous entity does not require the agreement of the  
19 employee. However, an employee may request a lateral job change. A voluntary demotion  
20 requires the written agreement of the employee.

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## Ethical Standards and Conduct

### Staff Comments to Proposed Amendments to Rules 2-8, 2-9, 2-15, and 9-1

Staff proposes to consolidate, clarify, and strengthen the rules regarding conflict of interest and supplemental employment. The highlights of the proposed amendments are the following:

- A. Staff proposes to merge into a single **new Rule 2-8 (Ethical Conduct)** the following three current rules:

Rule 2-8 (Conflict of Interest).

Rule 2-9 (Disclosure of Interest and Contacts).

Rule 2-15 (Supplemental Employment).

- B. **Proposed Rule 2-8.2 (Prohibitions).** The various conduct now prohibited in current Rule 2-8.1 is rewritten for clarification and to strengthen the prohibitions (*see individual section comments*). Also, the existing *reporting requirements* regarding supplemental employment and disclosure of conflicts are added as *prohibited conduct* (in §§(a)(3) and (a)(7)-(a)(12)). Also, a new prohibition covering employees who are required to be a member of the Michigan Bar has been added at §(b).

- C. **Proposed Rule 2-8.3 (Disclosure).** Current Rule 2-9.1 (Disclosure of Interest), Rule 2-9.2 (Disclosure of Contacts), and Rule 2-15 (Supplemental Employment) are substantially rewritten:

1. **Proposed Rule 2-8.3(a) (Disclosure of Personal and Financial Interests).** Current Rule 2-9.1 (Disclosure of Interest) requires employees who are given notice to report personal and family interest interests in businesses with which the employee has direct contact as a state employee.

The proposed amendments make the following changes:

- a. The disclosure requirement would become nominally applicable to all employees, not just the current subset of “affected employees” listed in Rule 2-9.1(a). [Although applicable to all employees, individual agencies will be able to decide with precision which particular employees must make a disclosure, what they must disclose, and when they must disclose it [*see Proposed Rule 2-8.7*].]
- b. Employees would be required to make a disclosure report at least annually.
- c. Explicitly provide for action by the appointing authority to ameliorate a conflict of interest, if one is discovered.

These amendments give agencies considerable flexibility to tailor the reporting requirements to their own special circumstances.

2. **Disclosure of Contacts.** Current Rule 2-9.2 (Disclosure of Contacts) requires a subset of employees to disclose in writing receipt of “anything of value” from a “person doing business with the state.” The current rule also permits agencies to exclude reporting of *de minimis* items [i.e., under \$10.00 per item or under \$40.00 aggregate per quarter].

The proposed amendments repeal the reporting requirements and instead incorporate those requirements into proposed Rule 2-8.2(c) as a flat prohibition against accepting “anything of

value from a “designated representative.” [NOTE: The defined term “designated representative” replaces the term “person doing business with the state” in Rule 9-1, but the definition itself is largely unchanged.]

- C. **Proposed Rule 2-8.3(b) (Disclosure of Supplemental Employment).** Current Rule 2-15 (Supplemental Employment) is rewritten to strengthen its requirements regulating supplemental employment. The proposed amendments address in more detail (1) newly-hired employees, (2) reporting changes in supplemental employment, (3) actions the appointing authority may take to ameliorate conflicts, and (4) applicants.

The proposed amendments also explicitly provide that an employee does not need to get agency approval for supplemental employment in the uniformed services (and adds a definition of “uniformed services” in **Rule 9-1**).

- D. **Proposed Rule 2-8.4 (Compliance).** This new section adds an explicit provision that employees are required to comply with the ethical standards as a condition of employment.
- E. **Proposed Rule 2-8.5 (Discipline).** This new section adds an explicit provision that employees who violate the ethical standards may be disciplined, up to and including dismissal.
- F. **Proposed Rule 2-8.6 (Reporting Violations).** This new section adds a new provision to require all employees to report violations of ethical standards.
- G. **Proposed Rule 2-8.7 (Appointing Authority Guidance and Exemptions).** The current provisions requiring prior State Personnel Director approval of agency procedures (current Rule 2-8.2 and Rule 2-9.3) have been consolidated and rewritten:

**Subsection (a)** provides examples of some specific guidance that appointing authorities may provide to employees in work rules or other directives, including (1) setting standards of ethical conduct that are stricter than required by the rules, (2) defining specific prohibited acts, (3) identifying particular employees or classes of employees who must disclose, (4) establishing procedures, forms, and times for disclosure, and (5) establishing procedures for obtaining ethics rulings.

**Subsection (b)** also permits an agency to continue the current exception for *de minimis* “things of value.” The *de minimis* values (currently \$10 for a single item; \$40 aggregate in one quarter) have been increased to reflect inflation (up to \$20 for a single item; \$80 aggregate in one quarter).

**Subsection (c)** is an exception to the general prohibition in proposed Rule 2-8.2(c) that prohibits an employee from accepting “anything of value” from a “designated representative.” Ordinarily, if an employee attended a conference paid for by a “designated representative” (such as a software vendor that provides software to the employee’s agency) it would violate proposed Rule 2-8.2(c) because the expenses (e.g., travel, lodging, or meal expenses) paid by the “designated representative” would be “anything of value.” However, under this exception, an appointing authority may permit an employee to attend a vendor-paid conference or training session if (1) the agency determines that the employee’s attendance is primarily for the benefit of the state, (2) the expenses paid by vendor are limited to the type of expenses that would otherwise be reimbursable business or travel expenses (e.g., travel, lodging, meals, etc.; *not* golf fees or sports tickets), and (3) the agency determines that the paid attendance would not reasonably be expected to improperly influence the employee’s behavior.

- H. Amendment to **Rule 9-1 (Definitions).** The proposed amendments add new definitions of “immediate family,” “supplemental employment,” and “uniformed services.” The definition of “anything of value” is restructured and adds a new subsection to include “special favors or privileges not available to the general public” as a thing of value. The definition of “person doing business with the state” is renamed “designated representative” and modified slightly.

## 2-8 Ethical Standards and Conduct

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### 2-8.1 Ethical Conduct Required

Employment in the state classified service demands a high degree of loyalty and imposes high ethical standards on employees to ensure the integrity of state government and to maintain effective services. All employees must meet these ethical standards and all appointing authorities are obligated to enforce these ethical standards.

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### 2-8.2 Prohibitions

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(a) All employees. A classified employee shall not do any of the following:

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- (1) Divulge or release, for financial gain for the employee or a member of the employee's immediate family, any confidential information that is not by law, rule, regulation, or court order available to members of the general public. However, this subsection does not prohibit an employee from disclosing to a public body a violation or suspected violation as authorized in rule 2-10 [Whistleblower Protection] unless otherwise prohibited by statute, court order, or professional ethics.

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**Staff Comments to draft Rule 2-8.2(a)(1).** The amendments to the first sentence in §(a)(1) rewrites the sentence for clarity. The amendments to the second sentence clarify that the prohibition in §(a)(1) is not intended to limit an employee from making a disclosure under Rule 2-10, the Whistleblower Protection rule.

- (2) Engage in or agree to engage in, for financial gain for the employee or a member of the employee's immediate family, any business transaction or private arrangement that accrues from or is based on the employee's official position or on confidential information gained by reason of the employee's position.

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**Staff Comments to draft Rule 2-8.2(a)(2).** The proposed amendment rewrites §(a)(2) for clarity and to expand the rule beyond only engaging in a business transaction or private arrangement. The proposed amendments expand the rule to prohibit agreements to engage in prohibited transactions.

- (3) Solicit, accept, or agree to accept anything of value (1) from any designated representative [as defined in rule 9-1] or (2) under any circumstances that could reasonably be expected to influence the manner in which the employee performs work or makes decisions.

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**Staff Comments to draft Rule 2-8.2(a)(3).** The proposed amendment to §(a)(3) adds the express prohibition of accepting "anything of value" from any "designated representative." Currently, in Rule

2-9.2, there is only a requirement that certain employees report whenever they accept “anything of value.”

The proposed amendment strengthens the ethical requirements in two ways: (1) the amendment will apply the prohibition to *all* nonexclusively represented employees and (2) the amendments explicitly *prohibit* accepting “anything of value” from any “designated representative,” not merely require reporting the acceptance.

[NOTE: The defined term “designated representative” replaces the term “person doing business with the state.” However, the definition itself, in Rule 9-1, is largely unchanged. For any individual employee, the “designated representatives” do not include every representative of every entity that has business with the state. Rather, an individual employee is prohibited from accepting anything of value from the “designated representatives” of only those businesses with which that individual employee has official contact in his or her state duties. Thus, an employee who has no official state duties related to Company X may accept something of value from a representative of Company X without violating Rule 2-8.2(a)(3).

(4) Make available any consideration, treatment, advantage, or favor beyond that which is generally granted or made available to others under similar circumstances.

(5) Represent or act as agent for any private interests, whether for compensation or otherwise, in any transaction in which the state has a direct and substantial interest and which could reasonably be expected to result in a conflict between the employee’s private interests and official state responsibilities.

(6) Exercise any decision-making authority of the state regarding any state regulation, enforcement, auditing, licensing, or purchasing with respect to any business or entity in which the employee or a member of the employee’s immediate family has any financial interest.

**Staff Comments to proposed Rule 2-8.2(a)(6).** The proposed amendment rewrites §(f). First, the proposed amendment is changed to prohibit *exercising decision-making* rather than *having an interest in a business*. This changes the focus of the prohibition from attempting to regulate outside behavior to regulating work behavior. The current §(f) prohibition against *having an interest in a business* is now addressed in **proposed Rule 2-8.3(a)** that requires reporting conflicts of interest and permits the appointing authority to take action to ameliorate any conflict.

(7) Engage in supplemental employment that conflicts with the satisfactory or impartial performance of the employee’s state duties.

(8) Engage in supplemental employment without the express written consent of the appointing authority.

(9) Engage in any supplemental employment during actual-duty time.

(10) Request or use sick leave to engage in supplemental employment.

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**Deleted:** (f) . Have any substantial interest in, nor can a member of the employee’s immediate family have such interest in, any business or industry concerning which the employee directly, in a significant decision-making capacity, participates on behalf of the state in the regulation, enforcement, auditing, licensing, or purchasing of any goods or services.

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(11) Use any state funds, property, or equipment in or for the benefit of any supplemental employment.

(12) Fail to timely, fully, and accurately report to the appointing authority any of the following:

(A) Any interest of the employee or the employee's immediate family in any business or entity with which the employee has direct contact while performing official duties as a classified employee.

(B) Any supplemental employment or change in approved supplemental employment required by this rule, applicable regulations, or departmental work rules.

**Staff Comments to draft Rule 2-8.2 §§(a)(7)-(12).** These additional prohibitions are derived from the implicit prohibitions in the current rules on supplemental employment and reporting of disclosures and contacts. The prohibitions added in proposed §§(a)(7)-(12) are thus not new prohibitions.

(b) Attorneys. In addition to any other prohibition, an employee occupying a classified position that requires the employee to be a licensed attorney in the State of Michigan shall not do any of the following, whether for compensation or otherwise:

(1) Represent any person or entity with an interest adverse to the State of Michigan or any of its agencies or instrumentalities (1) in any criminal, civil, regulatory, or administrative matter or (2) before any court or administrative agency.

(2) Represent any private interest before any state administrative agency.

(3) Represent another state employee in any matter, including a personnel matter, against the State of Michigan or any of its agencies or instrumentalities.

**Staff Comments to draft Rule 2-8.2(b).** This subsection (b) is new. The subsection applies to all classified employees who are required to be a member of the Michigan Bar (including assistant attorneys general, administrative law examiners (ALEs), and administrative law specialists (ALSs)). This subsection applies to all such employees, including those employees granted permission to engage in the private practice of law as supplemental employment or engaging in voluntary unpaid activity. The subsection addresses the inherent conflicts of interest that arise when such a classified employee attempts to represent private interests that are adverse to the State of Michigan or represent private interests before other state administrative agencies. The purpose of the subsection is to flatly prohibit these classified employees from representing, as a private attorney, those private interests that result in a conflict of interest or the appearance of a conflict of interest. For example, if an ALE were to represent a private client before another state administrative body (and, therefore, another ALE), an appearance of a conflict of interest is created. For another example, if an ALS were to represent a fellow-employee in a grievance, the ALS may be required to openly attack his or her own appointing authority, thereby undermining the trust and loyalty required in the ALS's classified job.

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Even if an appointing authority grants permission for an employee to engage in the supplemental employment of law, a covered employee cannot engage in the private representation contrary to this subsection. Under this subsection, for example, even if the appointing authority has granted an ALE permission to engage in a supplemental law practice, the ALE cannot represent anyone in a criminal matter, cannot represent any private interest in federal court against the State of Michigan, cannot represent a fellow-employee in a civil service grievance hearing, and cannot counsel a private client on how to proceed in a regulatory matter before the PSC.

## 2-8.3. Disclosure

### (a) Personal and financial interests.

(1) Disclosure. At least annually, an employee shall disclose to the appointing authority all personal or financial interests of the employee or members of the employee's immediate family, in any business or entity with which the employee has direct contact while performing official duties as a classified employee.

(2) Action by appointing authority. If the appointing authority determines that the personal or financial interests of the employee or the employee's immediate family represent an unacceptable conflict of interest with the employee's state duties, the appointing authority may take any of the following actions to eliminate the conflict:

(A) Require appropriate actions by the employee or the employee's immediate family regarding the personal and financial interests.

(B) Change the employee's job, including, but not limited to, imposing a lateral job change, demoting the employee, changing reporting relationships, changing work locations, or reassigning specific tasks.

(C) Separate the employee from the classified service if the conflict cannot be eliminated.

\* \* \* [Editor's Note: 2-9.2(b), *de minimis* exception, is relocated to draft rule 2-8.7(b), below]

### (b) Supplemental employment.

(1) Disclosure and approval required. All employees must report all supplemental employment to their appointing authority and must receive approval from their appointing authority to engage in supplemental employment.

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1 (A) Employees. Before engaging in supplemental employment, an employee  
2 ~~must disclose the nature and extent of the supplemental employment to the~~  
3 ~~appointing authority.~~ Thereafter, an employee must report all supplemental  
4 ~~employment at least annually as required by this rule, applicable regulations,~~  
5 ~~and the appointing authority.~~

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6 (B) Newly-hired employees. A newly-hired employee who is already engaging  
7 in supplemental employment at the time of hire must disclose the nature and  
8 extent of the supplemental employment as required by the appointing  
9 authority.

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10 (C) Changes. If there is a change in approved supplemental employment, the  
11 employee must disclose the nature and extent of the change to the appointing  
12 authority within 14 calendar days.

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13 (2) Action by appointing authority. If the appointing authority determines that  
14 supplemental employment (1) interferes with the employee's attendance,  
15 efficiency, or otherwise conflicts with the satisfactory performance of the  
16 employee's state duties or (2) represents an unacceptable conflict of interest with  
17 the employee's state duties, the appointing authority may take any of the following  
18 actions:

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19 (A) Withhold or withdraw approval to engage in supplemental employment.

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20 (B) Require the employee to modify, limit, or terminate the supplemental  
21 employment.

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22 (C) Change the employee's job, including, but not limited to, imposing a lateral  
23 job change, demoting the employee, changing reporting relationships,  
24 changing work locations, or reassigning specific tasks.

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25 (D) Separate the employee from the classified service if the conflict cannot be  
26 eliminated.

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27 (3) Service in the uniformed services; exception. An employee is not required to  
28 obtain approval to engage in supplemental employment in the uniformed services.  
29 However, unless precluded by military necessity, an employee must give advance  
30 written or verbal notice to the appointing authority of any absence from state duties  
31 for service in the uniformed services.

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32 (4) Applicants. As part of the appraisal process, an appointing authority may require  
33 an applicant to disclose the nature and extent of all employment that the applicant  
34 intends to continue as supplemental employment after the applicant is hired into  
35 the classified service.

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## 2-8.4 Compliance

~~As a condition of continued employment in the classified service, an employee must comply with the requirements of applicable rules, regulations, departmental work rules, and individual requirements imposed by an appointing authority.~~

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## 2-8.5 Discipline

~~An employee who engages in conduct prohibited by rule 2-8, an applicable regulation, a departmental work rule, or an individual requirement imposed by the appointing authority may be disciplined, up to and including dismissal from the classified service.~~

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## 2-8.6 Reporting Alleged Violations

~~An employee who becomes aware of any alleged violation of a standard of ethical conduct in this rule, an applicable regulation, a departmental work rule, or an individual requirement imposed by the appointing authority, must report the alleged violation to the appointing authority.~~

## 2-8.7 Appointing Authority Guidance and Exemptions

~~(a) Departmental work rules and directives. An appointing authority may issue departmental work rules or other written directives to define, implement, and enforce ethical standards. An appointing authority may, for example, do any of the following:~~

~~(1) Establish ethical standards for employees that are more strict than the basic standards established in this rule and the regulations.~~

~~(2) Define specific prohibited acts and conflicts of interest.~~

~~(3) Identify specific employees or classes of employees required to file disclosure reports.~~

~~(4) Establish procedures, forms, and times for disclosure.~~

~~(5) Establish procedures for an employee to obtain a prior written determination from the appointing as to whether specific future conduct is permitted or prohibited.~~

~~(b) De minimis exception. In a departmental work rule or directive, an appointing authority may exempt from the prohibition in rule 2-8.2(c) the receipt of anything of value that is so de minimis that the appointing authority has determined that its receipt by the employee could not reasonably be expected to influence how the employee performs work or makes decisions. However, any such de minimis exemption may not exceed the following limits:~~

~~(1) Any single tangible or intangible item with a fair market value exceeding \$20.00.~~



(2) ~~Any combination of tangible and intangible items during any 3-month period with an aggregate fair market value exceeding \$80.00.~~

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(3) ~~Any amount of money, including a loan of money.~~

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(c) Conferences, training, and meetings. Notwithstanding rule 2-8.2(c), an appointing authority may authorize an employee to attend a conference, training session, or other meeting, the expenses of which are paid in whole or in part by a designated representative, if all of the following are met:

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(1) The employee's attendance is primarily for the benefit of the state.

(2) The expenses paid are expenses, which if paid by the employee, would be reimbursable items under the standardized travel regulations or other policies of the appointing authority.

(3) The appointing authority has determined that paid attendance by the employee would not reasonably be expected to improperly influence how the employee performs work or makes decisions.

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## 9-1 Definitions

### Actual-duty Time

*Actual-duty time* means the time that an employee is scheduled to receive compensation, benefits, or benefit accruals for the performance of the employee's public duties as a member of the classified civil service. Actual-duty time includes all scheduled work time and overtime. Actual-duty time does not include the time an employee is on approved leave from the employee's public duties as a member of the classified civil service, even if the employee receives compensation, benefits, or benefit accruals for the time.

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### Anything of Value

*Anything of value* means any tangible or intangible item, including, but not limited to, the following:

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(a) Services,

(b) Entertainment,

(c) Recreation,

(d) Travel,

(e) ~~Food and~~ beverages.

(f) ~~Event tickets.~~

(g) ~~Gifts.~~

(h) ~~Loans.~~

(i) ~~Money.~~

(j) ~~Special favors or privileges not available to the general public.~~

\* \* \*

### Immediate Family

Immediate family in rule 2-8 [Ethical Standards and Conduct] means a person's grandparent, parent, parent-in-law, stepparent, sibling, spouse, child, or stepchild.

\* \* \*

[NOTE: The defined term "designated representative" merely replaces the term "person doing business with the state." However, the definition itself, in Rule 9-1, is largely unchanged.]

### Designated Representative

Designated representative means an individual employed by, or directly or indirectly representing, any of the following businesses or entities:

- (a) A business, entity, or person that has a contract with the state that the classified employee had or has the authority to (1) award or recommend the award, extension, or renewal of the contract or (2) approve or authorize any payments under the contract.
- (b) A business, entity, or person that is seeking a contract with the state for which the classified employee, as a part of the employee's official duties, had or has (1) the authority to develop, recommend, or approve the contract specifications or (2) the authority to recommend the purchase or award of the contract.
- (c) A business, entity, or person that is regulated by the agency employing the classified employee and for which the classified employee has any regulatory responsibility.
- (d) A business, entity, or person with an enforcement matter or contested case pending before an agency or court and for which the classified employee has any enforcement, adjudicatory, or representational responsibility.

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- (e) A business, entity, or person that performs work for the state that is inspected or approved d by the classified employee.
- (f) A business, entity, or person whose financial records are audited by the classified employee.
- (g) An employee or representative of a trade association if any member of the association is a business or entity described in subsections (a) through (f).
- (h) An attorney who represents any business, entity, or person described in subsections (a) through (f).
- (i) A lobbyist who represents any business, entity, or person described in subsections (a) through (f)

\* \* \*

### **Supplemental Employment**

Supplemental employment means employment, including self-employment, outside the classified service with any business or entity.

### **Uniformed services**

Uniformed services means (1) the Armed Forces of the United States, (2) the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, (3) the commissioned corps of the Public Health Service, and (4) any other category of persons designated by the President in time of war or national emergency.

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## 2-9 Disclosure of Interest and Contacts

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and (2) the personal and financial interests

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:

- (1) An employee who has authority to purchase or award contracts.

- (2) An employee whose official duties include (1) developing or approving specifications for contracts or (2) recommending the purchase or award of contracts.
  - (3) An employee who has substantial regulatory or enforcement responsibilities.
  - (4) An employee who inspects or approves work performed by businesses or persons who are not state employees.
  - (5) An employee who audits financial records of businesses or individuals.
  - (6) An employee who supervises any employee listed in subsections (a)(1) through (a)(5).
- (b) **Notice.** Each employee determined by the appointing authority to be subject to this rule must be given written notice of that determination. Disclosure is not required under this rule in the absence of such notice. The appointing authority shall maintain a list of employees who have been given notice and shall make that list available to the state personnel director and the public.

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## 2-9.2 Disclosure of Contacts

An employee who is given notice as provided in this rule shall report in writing to the employee's appointing authority each contact between the employee and any person doing business with the state in which the employee receives anything of value.

- (a) **Supervisors included.** An employee who supervises another classified employee governed by this rule shall report any contact between the supervisor and any individual in which the supervisor receives anything of value in the same manner as if the supervisor was the classified employee required to report by this rule.

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- (c) **Time limit for disclosure.** An employee shall file with the appointing authority any written report required by this rule within 14 calendar days after the reportable contact. An appointing authority may establish different time limits in its departmental procedures.

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## 2-15 Supplemental Employment outside the Classified Service

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Supplemental employment outside the classified service is permitted if all of the following conditions are met:		
(a) The supplemental outside employment must not conflict with the employee's hours of state employment and must not conflict in quantity or interest with the satisfactory and impartial performance of state duties.		
(b) The employee must secure the written approval of the appointing authority before engaging in supplemental outside employment.		
(c) The employee must inform the appointing authority of contemplated changes in supplemental outside employment.		
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- . Any such departmental work rule is effective after approval by the state personnel director.

reporting requirements of this rule any contact resulting in